

the amount that the claimant pays to be reasonable if it is no more than the prevailing charge for the same item or service under the Medicare guidelines. If the amount the claimant actually pays is more than the prevailing charge for the same item under the Medicare guidelines, the Board will deduct from the claimant's earnings the amount the claimant paid to the extent he or she establishes that the amount is consistent with the standard or normal charge for the same or similar item or service in his or her community. For items and services that are not listed in the Medicare guidelines, and for items and services that are listed in the Medicare guidelines but for which such guides cannot be used because the information is not readily available, the Board will consider the amount the claimant pays to be reasonable if it does not exceed the standard or normal charge for the same or similar item or service in the claimant's community.

(2) Impairment-related work expenses are not deducted in computing the claimant's earnings for purposes of determining whether the claimant's work was "services" as described in § 220.170.

(3) The decision as to whether the claimant performed substantial gainful activity in a case involving impairment-related work expenses for items or services necessary for the claimant to work generally will be based upon the claimant's "earnings" and not on the value of "services" the claimant rendered. (See §§ 220.143 (b)(6)(i) and (ii), and 220.144(a)). This is not necessarily so, however, if the claimant is in a position to control or manipulate his or her earnings.

(4) No deduction will be allowed to the extent that any other source has paid or will pay for an item or service. No deduction will be allowed to the extent that the claimant has been, could be, or will be reimbursed for payments he or she made. (See paragraph (b)(3) of this section.)

(5) The provisions described in the foregoing paragraphs in this section are effective with respect to expenses incurred on or after December 1, 1980, although expenses incurred after November 1980, as a result of contractual

or other arrangements entered into before December 1980, are deductible. For months before December 1980, the Board will deduct impairment-related work expenses from the claimant's earnings only to the extent they exceeded the normal work-related expenses the claimant would have had if the claimant did not have his or her impairment(s). The Board will not deduct expenses, however, for those things with the claimant needed even when he or she was not working.

(g) *Verification.* The Board will verify the claimant's need for items or services for which deductions are claimed, and the amount of the charges for those items or services. The claimant will also be asked to provide proof that he or she paid for the items or services.

Subpart M—Disability Annuity Earnings Restrictions

§ 220.160 How work for a railroad employer affects a disability annuity.

A disability annuity is not payable and the annuity must be returned for any month in which the disabled annuitant works for an employer as defined in part 202 of this chapter.

§ 220.161 How work affects an employee disability annuity.

In addition to the condition in § 220.160, the employee's disability annuity is not payable and the employee must return the annuity payment for any month in which the employee earns more than \$400 (after deduction of impairment-related work expenses) in employment or self-employment of any kind. Any annuity amounts withheld because the annuitant earned over \$400 in a month may be paid after the end of the year, as shown in § 220.164. The \$400 monthly limit no longer applies when the employee attains retirement age and the disability annuity is converted to a full age annuity. See § 220.145 for the definition of impairment-related work expenses.

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